California Regional Water Quality Control Board
North Coast Region

Cleanup and Abatement Order and Requirement for Technical Reports
No. R1-2006-0046
(Corrected)

for

Scotia Pacific Company LLC, Salmon Creek Corporation, and
The Pacific Lumber Company

Freshwater Creek Watershed

Humboldt County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), finds that:

1. The Pacific Lumber Company (PALCO), the Scotia Pacific Company LLC, and Salmon Creek Corporation, all subsidiaries of MAXXAM, Inc., (hereinafter collectively referred to as the Discharger) own and/or conduct timber harvesting activities on approximately 15,520 acres of the 19,892-acre Freshwater Creek watershed, which is tributary to Humboldt Bay, southeast of Eureka. The Discharger owns approximately 78% of the total watershed area.

2. The Discharger conducts timber harvesting, forestry management, road construction and maintenance, and related activities on the lands in the Freshwater Creek watershed within its ownership.

3. Mean annual precipitation in the vicinity of the Freshwater Creek watershed shows a strong elevation gradient, ranging from 99 cm in Eureka (seaside) to 152 cm near Kneeland (20 km inland, elevation 810 m.). Roughly 90% of the precipitation occurs as rainfall between October and April.

4. Pursuant to the Water Quality Control Plan for the North Coast Region (Basin Plan), including State Water Resources Control Board (State Water Board) Resolution No. 88-63, the existing and potential beneficial uses of the Eureka Plain Hydrologic Unit, including the Freshwater Creek and its tributaries, are:

    a. Municipal and Domestic Supply (MUN)
    b. Agricultural Supply (AGR)
    c. Industrial Service Supply (IND)
    d. Groundwater Recharge (GWR)
    e. Freshwater Replenishment (FRSH)
    f. Navigation (NAV)
    g. Hydropower Generation (POW)
    h. Water Contact Recreation (REC-1)
    i. Non-contact Water Recreation (REC-2)

j. Commercial and Sports Fishing (COMM)
k. Cold Freshwater Habitat (COLD)
l. Wildlife habitat (WILD)
m. Rare, Threatened, or Endangered Species (RARE)
n. Marine Habitat (MAR)
o. Migration of Aquatic Organisms (MIGR)
p. Spawning, Reproduction, and/or Early Development (SPWN)
q. Estuarine Habitat (EST)
r. Aquaculture (AQUA)
s. Native American Culture (CUL),
t. Water Quality Enhancement (WQE)
u. Flood Peak Attenuation/Flood Water Storage (FLD)
v. Wetland Habitat (WET)

5. The waters of Freshwater Creek support coho and Chinook salmon, and steelhead and cutthroat trout. Coho salmon, Chinook salmon, and steelhead trout are listed as threatened under the federal Endangered Species Act. Additionally, the California Fish and Game Commission amended the California Endangered Species Act (CESA) to list coho salmon as threatened in the Southern Oregon / Northern California Coast Evolutionarily Significant Unit (ESU) north of San Francisco Bay, which includes Freshwater Creek.

6. Sediment deliveries to Freshwater Creek have increased in response to accelerated timber harvesting activities over the last 15 years, resulting in impacts to water quality conditions. The record on this matter is extensively documented, as with testimony and evidence provided by the public, interested parties, affected residents, the Discharger, and Regional Water Board staff and through numerous hearings before the Regional Water Board:

   a. Significant discharges of sediment and organic debris to watercourses have aggraded the stream channels in some areas, significantly reducing channel capacity and, along with increased peak flows, contributed to increased flood frequencies and severity;

   b. Increased flooding threatens public health and safety, including ingress and egress to homes, roads, bridges, and other structures. Flooding is a nuisance condition under California Water Code (CWC) and must be addressed (CWC §§ 13050 and 13263);

   c. Increased sediment and organic material can also produce tastes and odors offensive to the senses, and can interfere with surface water supply intakes and endanger the integrity of septic systems; and

   d. Increased turbidity due to excessive fine sediments also provides a medium to promote bacteriological growths and reduces the effectiveness of water disinfection for domestic water supplies.

   Recent inspections and residents' reports to the Regional Water Board affirm that these effects continue in nature and extent.

7. Excessive fine sediment has been shown to detrimentally affect spawning gravel for fish and to reduce survival from egg to emergence stages by reducing intragravel oxygen and gravel permeability and by entombing fish larvae within gravel interstices. Excessive fine

sediment can reduce the production of food organisms for juvenile fish. Furthermore, increased excessive bedload results in deposition of sediment that reduces stream pool size and habitat availability for aquatic species, and reduces channel capacity, which leads to increased flooding of adjacent lands. It also results in reduced summer storage due to filled pools, and may reduce surface flow since much of the stream flow is within the channel sediments during the summer.

8. The Freshwater Creek watershed is listed as an impaired water body under Section 303(d) of the federal Clean Water Act due to sedimentation/siltation. Water quality problems cited under the listing include: sedimentation, threat of sedimentation, impaired irrigation water quality, impaired domestic supply water quality, impaired spawning habitat, increased rate and depth of flooding due to sediment, and property damage.

9. Between 1974 and 1987, PALCO, under its previous ownership, harvested at an average annual rate of 1.03% of its Freshwater Creek holdings.

10. From 1988 to 1993, under the new ownership, the Discharger harvested a total of approximately 3,850 acres (25%) of the Freshwater Creek ownership, or approximately 5% of the Freshwater Creek ownership per year. From 1993 through 1998, the Discharger harvested a total of approximately 6,160 acres (40%) of the Freshwater Creek ownership, or approximately 8% of the Freshwater Creek ownership per year. From 1999 through 2001 there was a moratorium on timber harvesting while the California Department of Forestry and Fire Protection (CDF) imposed a moratorium on new plan approval due to cumulative watershed impacts. From 2002 to 2004, the annual average harvest rate was 3% of their ownership. The new ownership significantly intensified the rate and scale of timber harvesting activities in these watersheds over the last 17 years, and sediment reports submitted by the Discharger document a resulting significant timber-harvest-related increase in sediment discharges, and threatened sediment discharges.

11. On December 16, 1997, representatives of CDF, California Department of Fish and Game, California Division of Mines and Geology (now known as the California Geologic Survey), and Regional Water Board staff reached consensus that the Freshwater Creek watershed had significant adverse cumulative watershed impacts, with timber harvesting a contributing factor.

12. Conditions in this watershed, tools for recovery, and the linkages to timber harvesting plan activities and associated road construction are documented in a number of reports and scientific panel reviews:

    a. *An Analysis of Flooding in Elk River and Freshwater Creek Watershed, Humboldt County, California* (1999): A CDF-commissioned Blue Ribbon panel of University of California scientists (U.C. Panel, July 1, 1999 review) concluded, in part, that the submitted analysis was incomplete and incorrect, and that flooding was likely increased significantly by the Discharger's timber harvest and related activities. In addition, the U.C. Panel noted that there is aggradation in Freshwater Creek, and that the material is still being transported through the fluvial system.

    b. The North Coast Regional Water Quality Control Board's *Staff Report for Proposed Regional Water Board Actions in the North Fork Elk River, Bear Creek, Freshwater*

Creek, Jordan Creek and Stitz Creek Watersheds (Sept. 9, 2000): This document described and annotated the increased sediment deliveries to watercourses from harvested lands, increased flooding impacts, the accelerated rate of land-disturbing timber harvest activities, and its correlation to these impacts. The document also contained proposed alternative or combined courses of action for reducing these impacts, including but not limited to the issuance of waste discharge requirements.

c. The University of California Committee on Cumulative Watershed Effects found in their June 2001 report, *A Scientific Basis for the Prediction of Cumulative Watershed Effects*, that an increase in peak flow rates due to timber harvesting is likely under the current harvest rates and that this increase in peak flow translates into an increase in flood risk.

d. The *Humboldt Watersheds Independent Scientific Review Panel* (ISRP) (December 27, 2002) reviewed CDF's application of the empirical peak flow model used to establish the annual timber harvesting limitation of 500 equivalent clearcut acres for the Freshwater Creek watershed. The ISRP concluded that "the approach does not take into account sediment production or changes in the sediment transport capacity of channels that might result from harvest." Further, because the CDF approach is designed to maintain the current level of impairment rather than promote recovery, this approach "yields a high risk that current harvest rates will not achieve recovery of beneficial uses of water in impaired water bodies."

e. The ISRP found that the harvest and road construction rates have been high enough to impact a substantial portion of the watershed. These activities and impacts are documented in the *Freshwater Watershed Analysis* (Pacific Lumber, January 2001). The ISRP concluded, among other things, that the approval of THPs generating this documented level of impact constitutes a strong indication that the THP and HCP processes will not result in the timely recovery of the Freshwater Creek watershed.

13. In March of 1999, the Discharger, the US Fish and Wildlife Service, National Marine Fisheries Service (NMFS, now called NOAA Fisheries Service, or NOAA Fisheries), and the California Department of Fish & Game (DFG) (collectively referred to as the Wildlife Agencies) entered into an agreement to implement a multi-species *Habitat Conservation Plan* (HCP) on the Discharger's lands. The HCP was prepared to address the requirements of the federal Endangered Species Act (FESA) and the California Fish and Game Code with regard to listed (and potentially listed) species, including listed salmonids. The Implementation Agreement for the HCP states, in part, "notwithstanding any other provisions in this Agreement all activities undertaken pursuant to this Agreement, the HCP, or the Federal or State Permits must be in compliance with all applicable Federal and state laws and regulations."

14. The HCP imposes certain prescriptions and other benefits that may result in both short-term and long-term benefits and improvements in the Freshwater Creek Watershed. However, the HCP was not designed to, and can not, ensure full compliance with the federal and state water quality laws and regulations, such as the Basin Plan prohibition against discharge of sediment waste in amounts deleterious to beneficial uses such as domestic drinking water supplies. In addition, the HCP does not protect against nuisance flooding or directly

remediate aggradation of stream channels. Section 3.4.1.3 (page 3.4-13) of the *Final Environmental Impact Statement/Environmental Impact Report For the Headwaters Forest Acquisition and the PALCO Sustained Yield Plan and Habitat Conservation Plan* acknowledges this in part, as follows: "Because the proposed HCP/SYP is not designed specifically to address impaired waters to meet the water quality criteria, additional restrictions and management practices may be required later by the TMDL process. These future restrictions could conflict with some management components of the proposed HCP/SYP. Such future effects of the Clean Water Act enforcement are beyond the scope of this document and thus will not be addressed here". Additionally, the HCP requirements are calculated to result in a trend toward properly functioning watershed conditions over a period of 50 years. The HCP was not designed to achieve compliance with applicable water quality standards, the legal requirements in the Basin Plan or other applicable water quality laws in Porter-Cologne or the Clean Water Act. The Regional Water Boards, however, are required to regulate water quality in a manner that will achieve compliance with those laws.

15. Under the HCP, the Discharger is implementing road-related sediment reduction strategies associated with CDF-approved THPs to reduce sediment discharges from roads to streams. Particularly, the Discharger "upgrades" all appurtenant roads associated with approved THPs, and employs a "zero net discharge" sediment offset strategy. Such efforts can be effective at minimizing sediment discharges from timber harvesting activities when properly implemented. However, these strategies fail to first prevent controllable discharges from occurring and then fail to truly mitigate for incidental discharges once they have occurred, thus continuing to allow ongoing sediment discharges to waters of the State. In addition, the Discharger is also conducting corrective roadwork, independent of THPs, across its ownership to reduce sediment discharges from roads to streams. Particularly, the Discharger is required to "stormproof" roads and landings on its ownership within the first 20 years of the HCP. Such efforts can be effective at minimizing road-related sediment discharges when properly implemented. However, sediment discharges from other anthropogenic sediment source sites, such as skid trails, gullies, and landslides are not necessarily addressed under this strategy. While these ongoing discharges may be acceptable within the time period of the HCP, they do not comply with prohibitions outlined in the *Action Plan for Logging, Construction, and Associated Activities* in the Basin Plan. Therefore, sediment reduction strategies under the HCP, as implemented through the CDF THP review process, do not sufficiently protect water quality and restore the beneficial uses of impaired waters of the State, particularly as applied in this watershed which has been heavily affected by cumulative effects of intensive human activities.

16. In recognition of the conditions in the Elk River and Freshwater Creek watersheds and the linkage to timber harvesting plan activities, the Regional Water Board approved three motions on December 3, 2003: 1) additional regulatory and non-regulatory actions are necessary due to the rate and scale of land disturbing activities in the five impaired watersheds, including Freshwater Creek; 2) direction to develop a Cleanup and Abatement Order to address sediment sites (Order R1-2004-0028) and issue a Time Schedule Order if the due dates contained in the Order are not met; and 3) require the submittal of Reports of Waste Discharge which would lead to watershed-specific Waste Discharge Requirements (WWDRs). Those WWDRs are currently scheduled for Regional Water Board consideration on April 24 and 25, 2006 with an additional date of May 8, 2006 if needed.

17. On March 26, 2003, the Regional Water Board Executive Officer issued two orders under CWC section 13267(b), directing the Discharger to submit technical reports for purposes of developing Elk River and Freshwater Creek Total Maximum Daily Loads (TMDLs) for sediment. The technical reports under both orders were due by April 15, 2003. The Discharger has not complied with those orders to date, and has filed a lawsuit, still pending in the courts, challenging the authority and basis for those orders.

18. The Discharger is currently proposing to engage in timber harvesting plan activities within its Freshwater Creek ownership that will result in additional discharges and threatened discharges of sediment to the Freshwater Creek and its tributaries. Those discharges will cause impairment of the beneficial uses of those waters in addition to what has already occurred as a result of timber harvesting plan and related activities, as extensively documented in the record.

19. The Discharger has discharged waste, particularly sediment, into waters of the State in amounts deleterious to beneficial uses, in violation of Basin Plan prohibitions. The Discharger has caused and permitted waste to be discharged or deposited where it is likely to be discharged into Freshwater Creek and their tributaries in amounts deleterious to beneficial uses, also in violation of the Basin Plan. Such waste discharges have created conditions of pollution and nuisance, and will likely continue to exacerbate such conditions until the waste is cleaned up and its effects abated by the Discharger. These conditions and activities trigger the provisions of CWC sections 13304 and 13267.

20. The Discharger is required by this order, under the authority of CWC section 13304, to cleanup and abate ongoing and threatened discharges to waters of the State from past, present and proposed activities on its lands. The obligations to comply with this Order are independent of, and in addition to, any arrangements the Discharger may have with other agencies to comply with other laws or permits or under the HCP. The Regional Water Board is willing, and this Order is structured, to maximize consonance between the requirements of this Order and other agency permits and requirements, to the degree possible while still achieving compliance with applicable water quality laws.

21. The technical reports required by this order under CWC section 13267(b) are necessary to ensure that sources of management-related sediment discharges are identified, characterized and evaluated for treatability, and abated. The burden to the Discharger, including the costs of these reports, bears a reasonable relationship to the need and benefits to be obtained, because the reports will lead directly to the abatement and prevention of controllable discharges to impaired waters of the State. These discharges cause, and threaten to cause, significant environmental and economic harm to the beneficial uses of waters of the State and add to nuisance flooding conditions.

22. This is an enforcement action by a regulatory agency, being taken for the protection of the environment, and is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, section 21000 et seq., specifically section 21084), and in accordance with California Code of Regulations, Title 14, section 15321.

THEREFORE, IT IS HEREBY ORDERED that pursuant to CWC sections 13267(b) and 13304, the Discharger shall comply with the following provisions:

In overview, the primary components of these provisions require:

1) By June 5, 2006, the submittal of a proposed 2006 Work Plan for sediment abatement (i.e. "sediment reduction" or "treatment") activities in this watershed.
2) By June 19, 2006, the submittal of a report summarizing all sediment abatement activities conducted in 2005 in this watershed;
3) By October 2, 2006, the submittal of a Monitoring and Reporting Plan for the implementation of this Order;
4) By November 15, 2006, the submittal of a sediment source inventory, sediment reduction plan, and master treatment schedule;
5) The implementation of the required plans, with annual workplans for, and monthly status reports on such implementation.

More specifically, the Discharger shall:

1. **Submit Proposed 2006 Sediment Correction Work Plan -** By June 5, 2006 the Discharger shall submit, for concurrence by the Regional Water Board Executive Officer, a work plan of all sediment reducing (treatment) work proposed to be conducted in the Freshwater Creek watershed in the 2006 work year. The 2006 work plan shall include, at a minimum, the following information:
   - A written summary describing the types of activities to be conducted, including the total number of road miles, stream crossings, and any other sediment-producing sites to be treated.
   - A treatment site identification number and location shown on a scaled map. All site identification numbers or numbering systems shall be the same as or correlated to road work order numbers in the Dischargers THPs, where applicable.
   - A table compiling all sites, including the following information: the volume of sediment to be treated, treatment immediacy or priority, the selected treatment alternative.

2. **Submit Information on Sediment Correction Work Completed in 2005** – By June 19, 2006 the Discharger shall submit a report, for concurrence by the Regional Water Board Executive Officer, summarizing all sediment reducing (treatment) work conducted in the Freshwater Creek watershed in the 2005 work year. An adequate summary report shall include, at a minimum, the following information:
   - A written summary describing the types of activities conducted, including the total number of road miles and stream crossings treated.
   - A treatment site identification number and location shown on a scaled map. All site identification numbers or numbering systems shall be the same as or correlated to road work order numbers in the Dischargers THPs, where applicable.
   - A table compiling all sites, including the following information: the volume of sediment to be treated, treatment immediacy or priority, the selected treatment alternative.

3. **Monitoring and Reporting Plan**: By October 2, 2006, the Discharger shall submit, for concurrence by the Regional Water Board Executive Officer, a Monitoring and Reporting Plan (MRP) and associated documentation. The Discharger shall conduct annual winter period monitoring activities on a representative sample of sediment source sites treated under this Order. Monitoring of a subset of sites corrected in 2005 and 2006 shall commence as detailed within the monitoring plan upon concurrence by the Executive Officer, the onset of the first rain event after October 15, 2006 that generates overland flow, or by November 15, 2006, whichever is sooner.

   The MRP shall include, at a minimum, the following information:
   - Sampling locations shall be selected such that monitoring is conducted at a representative sample of treated sites across the categories identified, and across a range of physical, site-specific attributes (e.g., underlying geology, soil type, slope angle, drainage area, etc.)
   - Types of monitoring shall include: visual observations, photographic documentation, and instream grab sampling for turbidity. All selected monitoring locations shall be subject to observational monitoring, while smaller subsets shall also be subject to photographic monitoring and/or instream grab sampling for turbidity.
   - Sampling schedule that triggers monitoring at least twice per season and at least once during a stressing event. The precipitation events that trigger an individual monitoring event shall be defined within the MRP.
   - Post correction monitoring shall include an estimate of sediment delivered to a watercourse from the corrected site at least one and three years after the site has been corrected.
   - Components for both implementation and effectiveness monitoring.
   - Reporting schedule on a period basis throughout the monitoring period and an annual analysis and summary.

   By October 2, 2006, the Discharger shall develop and submit with the MRP for concurrence by the Regional Water Board Executive Officer, a Quality Assurance Project Plan (QAPP) and Standard Operating Procedures (SOPs) for all monitoring and reporting required by this Order. The QAPP and SOPs shall be developed in a manner consistent with guidance available from the US Environmental Protection Agency (EPA),[1] The Discharger shall implement monitoring and reporting activities according to the QAPP and SOPs in accordance with the time table set forth above.

4. **Prepare and Submit Sediment Source Inventory and Sediment Reduction Plan & Master Treatment Schedule –** By November 15, 2006, the Discharger shall prepare and submit, the following information, which is subject to the provisions outlined in Items 4(a) and 4(b), and subject to concurrence by the Regional Water Board Executive Officer:
   - An updated and current sediment source inventory and sediment reduction plan
   - A master treatment schedule for correction sites within the Discharger's ownership in the Freshwater Creek watershed.

[1] EPA guidance is available on the internet at: http://www.epa.gov/quality/

a) **Sediment Source Inventory and Sediment Reduction Plan:** By November 15, 2006, the Discharger shall prepare, for concurrence by the Regional Water Board Executive Officer, a sediment inventory of all sediment discharge sites present within their holdings in the Freshwater Creek watershed as of May 8, 2006. An adequate inventory and associated report shall, at a minimum, contain the following information:

i) A detailed list of all sediment source sites associated with watercourse crossings, roads, skid trails, gullies, road-related and non-road-related landslides, and any other sediment-generating features associated with timber harvesting activities. All sediment sites must be inventoried, cataloged, and evaluated for treatability. Sites that are determined to be infeasible to treat must be clearly identified along with a detailed reason for that determination.

ii) For each sediment source site, the list shall include the following information:
- A treatment site identification number and location shown on a scaled map, the volume of sediment to be treated, treatment immediacy, and the selected treatment alternative.

iii) All documentation associated with the investigation, assessment and characterization of sediment sources, including:
- Dates during which the inventory was conducted,
- Access to hard copies of all field notes and forms;
- Hard copy and electronic versions of databases and any associated GIS layers, or access to electronic databases and any associated GIS layers for queries by Regional Water Board staff; and hard copy and electronic versions of all air photographs and images used as part of the analysis, or access to hard copy and electronic versions of all air photographs and images used as part of the analysis.
- Associated analyses.

iv) Complete descriptions of:
- The extent of areas inventoried and of field surveys, justification for areas where field surveys were deemed unnecessary, aerial photographs (dates and flight lines included), all methods employed in the investigation, assessment, and characterization of sediment sources.

b) **Master Treatment Schedule** – By November 15, 2006, the Discharger shall prepare a master treatment schedule, for concurrence by the Regional Water Board Executive Officer, for all sediment discharge sites deemed feasible to treat as part of the sediment inventory and sediment reduction plan [Item 3(a).] A master treatment schedule shall accompany the sediment source inventory and sediment reduction plan, and shall contain a detailed, long-term, multi-year time schedule for treatment activities to be completed at all sites listed in the inventory and reduction plan. The master treatment schedule shall be based primarily on an efficient and expeditious recovery of the beneficial uses in the Freshwater Creek Watershed. The treatment schedule shall identify priority subbasins within the Freshwater Creek

watershed and a prioritization of treatment sites within each subbasin. The methods and criteria used for determining subbasin and site prioritization shall be explicitly described within the sediment reduction plan.

5. **Ongoing (Annual) Cleanup Activities** –Implementation of the Sediment Source Reduction Plan and Master Treatment Schedule described in Item 4 above shall begin on the date specified in the plans, and the work will commence in any event no later than June 1, 2007. Implementation shall continue on an annual basis until all sites have been treated, according to the following provisions:

a) **Submit Annual Work Plans and Treatment Schedules** – By April 1 of each year, the Discharger shall submit, for concurrence by the Regional Water Board Executive Officer, an annual workplan and treatment schedule to remedy sediment sources identified in the sediment source inventory and sediment reduction plan described in Item 4 above.

The workplan shall contain, at a minimum, a detailed list of known, priority sediment source sites that are feasible to treat prior to November 1 of the following winter period. In addition, all sites discovered during individual THP layout and proposed for correction during a particular year and not included in the Item 4 Master Sediment Inventory and Treatment Schedule shall also be described within the annual work plan, given a treatment prioritization, and a treatment schedule proposed.

In addition, for each sediment source site, the workplan list shall include:

- A treatment site identification number and location shown on a scaled map. All site identification numbers or numbering systems shall be the same as or correlated to road work order numbers in THPs either in development, approved, or pending approval.
- The volume of sediment to be treated,
- Treatment immediacy,
- The selected treatment alternative,
- A detailed time schedule for treatment activities to be completed prior to November 1 of the work year.

Each annual workplan must be consistent with the master treatment schedule constructed as per Item 4 of this Order. Any deviation from the master treatment schedule must be first submitted within the April 1 workplan and is subject to the concurrence of the Regional Water Board Executive Officer. Justification for deviations must be provided in detail.

b) **Implement Annual Work Plans and Treatment Schedules** – By May 1 of each year, the Discharger shall commence implementation of the annual workplan and treatment schedule described in Item 4(a) above, or within 14 days of concurrence of the plan by the Executive Officer, whichever is sooner. During treatment, the Discharger shall allow Regional Water Board staff reasonable access for routine inspection purposes to areas where control, treatment, and mitigation activities are occurring.

c) **Submit Annual Summary Reports and Monitoring Plans** - By November 15 of each year, the Discharger shall submit, for concurrence by the Regional Water Board Executive Officer, a summary report, monitoring plan and associated documentation for all treatment work conducted under this order during the applicable year. The summary report submittal shall include, at a minimum, a hard copy summary report describing all corrective actions completed, electronic versions of databases, and access to hard copies of all associated databases. In addition, the report shall correspond to and be fully compatible with the approved annual workplan and treatment schedule described in Item 4(a) above, and shall discuss, in detail, the reasons for any departures from the workplan and treatment schedule, and how such departures will be resolved in future years.

The summary report shall also include a winter period monitoring plan describing monitoring activities of corrected sites to be conducted for the current year's winter period. The monitoring plan shall be consistent with the requirements specified in Item 3 and shall contain an itemized list of selected monitoring locations, the types of monitoring to be conducted at each location, and a detailed sampling schedule. The monitoring plan shall also include references to all quality assurance documents (i.e., Quality Assurance Project Plans and Standard Operating Procedures) associated with the activities to be conducted. Monitoring of corrected sites shall commence as detailed within the monitoring plan upon approval by the Executive Officer, the onset of the first rain event after October 15 of the applicable year that generates overland flow, or by November 15, of the same applicable year, whichever is sooner.

6. **Monthly Status Reports** – For each month between May and November (inclusive), the Discharger shall submit to the Regional Water Board by the fifteenth day of the following month a brief status report for all treatment work conducted under this order. Each status report shall be compatible with the approved workplan and treatment schedule for the applicable year, and shall discuss in detail the reasons for any departures from the workplan and treatment schedule, and how such departures will be resolved in future months.

7. **Work Conducted by Licensed Professionals -** Work associated with the deliverables identified in this Order must comply with existing statutes and regulations regarding the practice of geology and/or engineering in California.

8. **Request for Extensions** - Requests for extensions to required time lines specified within this Order shall be submitted, in writing, at least 10 working days prior to the due date. Requests for extension must provide a reason or reasons for the request. Approval of any request for an extension of time to comply with required deadlines is subject to the approval of the Regional Water Board's Executive Officer. If the Discharger does not receive written approval of any requested extensions, it should not be assumed that the due dates are extended indefinitely or have been approved. The Discharger shall be accountable for all due dates set out in this Order in the absence of written approval from the Executive Officer.

9. Failure to comply with the terms of this Order may result in enforcement under the CWC. Any person failing to provide technical reports containing information required by this Order by the required date(s) or falsifying any information in the technical reports is, pursuant to CWC Section 13268, guilty of a misdemeanor and may be subject to administrative civil liabilities of up to one thousand dollars ($1,000.00) for each day in which the violation occurs. Any person failing to cleanup or abate threatened or actual discharges as required by this Order is, pursuant to CWC Section 13350(e), subject to administrative civil liabilities of up to five thousand dollars ($5,000.00) per day or ten dollars ($10) per gallon of waste discharged.

10. **Review or Reconsideration of This Order** - Any person affected by this action of the Regional Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with Section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The State Water Board must receive the petition within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request. In addition to filing a petition with the State Water Board, any person affected by this Order may request the Executive Officer or the Regional Water Board to reconsider this Order. To be timely, such request must be made within 30 days of the date of this Order. Note that even if reconsideration by the Executive Officer or Regional Water Board is sought, filing a petition with the State Water Board within the 30-day period is necessary to preserve the petitioner's legal rights.

Ordered by _____
Catherine Kuhlman
Executive Officer

May 4, 2006